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NO.WASH/POL/103/69/96

Mr Lawrence M. Noble  
General Counsel  
Federal Election Commission  
Washington, DC

April 25, 1997

Dear Mr Noble,

I am in receipt of your reminder RE: MUR 4583 of 22nd April on your earlier letter of January 16, 1997.

Frankly, I saw no reason earlier to make any reply as it was not clear from your communication that it was issued under the authority of the Federal Election Commission. Your letter did not also clarify whether you assist the Federal Election Commission in advisory capacity or have been entrusted with executive responsibility for discharging the Commission's statutory functions.

However, since you have taken the trouble of communicating with me once again, I thought I would clarify the position as under:

First, it is still not clear as to how I, as Minister of Community Affairs in the Embassy of India, have anything to do with the case referred to in your communication of January 16. The activities alleged to have been indulged in by various persons do not concern any of the offices established in this Mission nor is there any provision of funds in this Mission for such activities as have been described. In this view of the matter, all I can say is that your communication addressed to me or to the Embassy of India (through me) is misdirected.

Secondly, I now note that you have commenced the letter of April 22nd with the imputation that the US Federal Election Commission's letter dated November 25, 1996 "notified the Embassy of India and Mr Davendra Singh ...." I would like to clarify that all the correspondence so far has been addressed only to me and there has been no notice formally given to the Embassy of India or to Mr Davendra Singh; unless, of course, any other communication has been issued directly to them without my knowledge. However, Embassy of India has taken notice of communications addressed to me, but Mr Davendra Singh has not been notified.

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FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL

08:30:46:31:10:00

The standard procedure for interacting with accredited missions of foreign governments is a matter which is not covered in each individual act of legislature. In this respect, the statutes referred to by you are not all-inclusive. Provisions of every statute have to be read along with pertinent provisions of other relevant laws including international agreements and treaty obligations, and construed in accordance with the principles of harmonious construction.

In this particular case, the Vienna Convention on Diplomatic Relations of 1961 clearly provides that embassies and diplomatic agents are not subject to the legal process of the receiving State, including for the purpose of serving writs and summons, and that any request for information or cooperation in this matter should be channeled through the State Department.

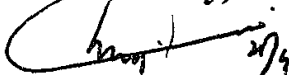
Since the above procedure was not followed, we ourselves referred the matter to the Department of State of the Government of United States. It is only a few days back that we received a communication from the Department of State requesting us voluntarily to cooperate with the FEC's investigations. While we are not averse to consider this request favorably, the matter has been referred to the Government of India for their consideration and final instructions in the matter.

I am constrained to point out that your last communication of April 22nd "requests" the Embassy to provide a response no later than close of business on Friday, April 25, 1997. It is for you to consider the reasonableness of the period specified in your letter to a duly accredited mission of a friendly foreign government.

We shall revert to you immediately upon receipt of instructions from the Government of India which we hope to receive in the near future.

I am to clarify in the end that our considering to voluntarily cooperate in the investigations of the Federal Election Commission does in no way imply that we have accepted the jurisdiction of the Federal Election Commission or the Courts except in accordance with the provisions of the Vienna Convention on Diplomatic Relations of 1961.

Yours sincerely,



(WAJAHAT HABIBULLAH)  
MINISTER (COMMUNITY AFFAIRS)